

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

**FILED
U.S. DISTRICT COURT
AUGUSTA DIV.**

2018 FEB 12 PM 4:41

**CLERK J. Hodges
SO. DIST. OF GA.**

LEVI WHITE

CASE NO. 1:18-cv-00021-JRH-BKE

Plaintiff

VS

DIVERSIFIED CONSULTANTS INC.

Defendant

**FIRST AMENDED COMPLAINT
COMPLAINT FOR VIOLATION OF THE TCPA**

VERIFIED COMPLAINT for RELIEF

Telephone Consumer Protection Act ("TCPA"), 27 U.S.C. § 227, et seq. The damages is based on Defendant's frequent and unauthorized calls to Plaintiff's cellular telephone.

JURISDICTION

1. This court has jurisdiction pursuant to 47 U.S.C. § 227 (b)(3), and 28 U.S.C. § 1331.
2. All conditions precedent to the bringing of this action have been performed.

PARTIES

3. The Plaintiff in this lawsuit is Levi White, a natural person who resides in Richmond County, Georgia.

4. The Defendant in this lawsuit is **DIVERSIFIED CONSULTANTS INC. a debt collection company** with offices at 10550 Deerwood Park Blvd, Building # 309 Jacksonville, FL 32256.

5. **DIVERSIFIED CONSULTANTS INC** Registered Agent Name & Address is InCorp Services Inc 2000 Riveredge Pkwy NW Ste.885, Fulton Atlanta GA, 30324.

6. Defendant **DIVERSIFIED CONSULTANTS INC** [herein after “DCI”]

VENUE

7. The occurrences which give rise to this action occurred in Richmond County, Georgia and Plaintiff resides in Richmond County, Georgia.

8. Pursuant to 28 U.S. Code § 1391 Venue is proper in Southern District of Georgia.

FACTUAL ALLEGATIONS

9. From June 9, 2014 to August 29, 2014 DIVERSIFIED CONSULTANTS INC called Plaintiff's wireless phone number 404-263-1845 from 687-666-3303, 678-999-8553, 678-733-9203, 678-733-9191, 678-733-9186, 678-666-5887, 678-666-3356, 678-666-3349, 678-666-3338, 678-608-2087, 678-608-0576, 678-608-0548, 678-733-9191, 678-701-1055, 678-701-1055, 678-701-1039 and, which are numbers known to be used by DCI. SEE EXHIBIT A

10. Defendant has demonstrated willful or knowing non-compliance with 47 U.S.C. §227(b) (1)(A)(iii) by calling the Plaintiff's phone number, which is assigned to a cellular telephone service contrary 47 U.S.C. §227(b)(1)(A)(iii) which states in part;

(1) PROHIBITIONS.—it shall be unlawful for any person within the United States, or any person outside the United States if the recipient is within the United States—

(A) to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice—

(iii) to any telephone number assigned to a paging service, cellular telephone service, specialized mobile radio service, or other radio common carrier service, or any service for which the called party is charged for the call;

11. DCI made at least 78 individual calls to plaintiff's wireless phone beginning June 9, 2014 and continuing through August 29, 2014 using ATDS capable equipment. SEE EXHIBIT B

“When evaluating the issue whether equipment is an automatic telephone dialing system, the statute’s clear language mandates that the focus must be on whether the equipment has the capacity ‘to store or produce telephone numbers to be called, using a random or sequential number generator.’ Accordingly, a system need not actually, store, produce, or call randomly or sequentially generated telephone numbers, it need only have the capacity to do it.”
Satterfield v. Simon & Schuster, Inc., 569 F.3d 946, 951 (9th Cir. 2009).

12. Defendant called the Plaintiff wireless phone as many as **5 times in one day**.

13. DCI called Plaintiff's wireless phone number 404-263-1845, on the following dates and times from the following number:

- 1) June 9 2014 at 11:22 AM from 678-666-3338
- 2) June 10 2014 at 8:12 AM from 678-701-1055
- 3) June 10 2014 at 10:41 AM from 678-666- 5887 SECOND CALL
- 4) June 10 2014 at 3:48 PM from 678-701-1055 THIRD CALL
- 5) June 10 2014 at 7:17 PM from 678-666-5887 FOURTH CALL
- 6) June 10 2014 at 8:13 PM from 678-701-1039 FIFTH CALL
- 7) June 11 2014 at 8:17 AM from 687-666-3303
- 8) June 11 2014 at 2:17 PM from 678-608-2087 SECOND CALL
- 9) June 11 2014 at 8:08 PM from 678-608-2087 THIRD CALL
- 10) June 12 2014 at 8:42 AM from 678-666-3338
- 11) June 12 2014 at 10:27 AM from 678-999-8553 SECOND CALL
- 12) June 12 2014 at 1:36 PM from 678-666-3356 THIRD CALL
- 13) June 13 2014 at 8:12 AM from 678-701-1055
- 14) June 13 2014 at 10:07 AM from 678-666-5887 SECOND CALL
- 15) June 16 2014 at 9:12 AM from 678-701-1055
- 16) June 16 2014 at 10:13 AM from 678-666-5887 SECOND CALL
- 17) June 16 2014 at 6:30 PM from 678-701-1039 THIRD CALL
- 18) June 16 2014 at 7:05 PM from 678-666-5887 FOURTH CALL
- 19) June 17 2014 at 9:25 AM from 687-666-3303
- 20) June 17 2014 at 4:56 PM from 678-666-3349 SECOND CALL
- 21) June 18 2014 at 10:03 AM from 678-666-3338
- 22) June 18 2014 at 1:04 PM from 678-666-3338 SECOND CALL
- 23) June 18 2014 at 7:08 PM from 678-999-8553 THIRD CALL
- 24) June 19 2014 at 9:07 AM from 678-701-1055
- 25) June 19 2014 at 1:21 PM from 678-666-5887 SECOND CALL
- 26) June 19 2014 at 7:50 PM from 678-666-5887 THIRD CALL
- 27) June 20 2014 at 8:14 AM from 687-666-3303
- 28) June 20 2014 at 7:05 PM from 678-608-2087 SECOND CALL
- 29) June 23 2014 at 8:26 AM from 687-666-3303
- 30) June 24, 2014 at 8:16 AM from 678-666-3338
- 31) June 24, 2014 at 11:08 AM from 678-999-8553 SECOND CALL
- 32) June 24, 2014 at 7:08 PM from 678-999-8553 THIRD CALL
- 33) June 25, 2014 at 10:18 AM from 678-701-1055
- 34) June 25, 2014 at 7:22 PM from 678-666-5887 SECOND CALL
- 35) June 26, 2014 at 8:46 AM from 678-733-9186
- 36) June 26, 2014 at 1:04 PM from 678-608-2087 SECOND CALL
- 37) June 26, 2014 at 5:55 PM from 678-733-9186 THIRD CALL
- 38) June 27, 2014 at 3:27 PM from 678-733-9191

- 39) June 30, 2014 at 8:43 AM from 678-733-9191
- 40) June 30, 2014 at 8:09 PM from 678-733-9191 SECOND CALL
- 41) July 2, 2014 at 10:19AM from 678-733-9186
- 42) July 2, 2014 at 5:51 PM from 678-733-9186 SECOND CALL
- 43) July 3, 2014 at 8:26AM from 678-733-9191
- 44) July 3, 2014 at 12:19 PM from 678-733-9191 SECOND CALL
- 45) July 7, 2014 at 6:47 PM from 678-701-1055
- 46) July 9, 2014 at 10:53 AM from 678-733-9191
- 47) July 9, 2014 at 1:42 PM from 678-733-9191 SECOND CALL
- 48) July 9, 2014 at 6:14 PM from 678-733-9191 THIRD CALL
- 49) July 10, 2014 at 9:13 AM from 678-733-9203
- 50) July 10, 2014 at 11:31 AM from 678-733-9203 SECOND CALL
- 51) July 10, 2014 at 7:11 PM from 678-666-5887
- 52) July 11, 2014 at 9:03 AM from 678-733-9186
- 53) July 14, 2014 at 10:12 AM from 678-733-9186 SECOND CALL
- 54) July 15, 2014 at 10:09 AM from 678-733-9191
- 55) July 17, 2014 at 12:50 PM from 678-733-9186
- 56) July 18, 2014 at 8:44 AM from 678-733-9191
- 57) July 18, 2014 at 3:54 PM from 678-733-9191 SECOND CALL
- 58) July 21, 2014 at 11:19 AM from 678-733-9191 THIRD CALL
- 59) July 22, 2014 at 11:14 AM from 678-733-9203
- 60) July 23, 2014 at 1:15 PM from 678-733-9186
- 61) July 23, 2014 at 7:31 PM from 678-608-2087
- 62) July 24, 2014 at 11:10 AM from 678-733-9191
- 63) July 25, 2014 at 9:26 AM from 678-733-9203
- 64) July 28, 2014 at 11:12 AM from 678-733-9203
- 65) July 30, 2014 at 11:47 AM from 678-733-9191
- 66) July 31, 2014 at 8:16 AM from 678-733-9203
- 67) August 1, 2014 at 10:17 AM from 678-733-9186
- 68) August 5, 2014 at 1:17 PM from 678-733-9191
- 69) August 7, 2014 at 11:36 AM from 678-733-9191
- 70) August 8, 2014 at 9:32 AM from 678-733-9191
- 71) August 14, 2014 at 11:04 AM from 678-733-9191
- 72) August 15, 2014 at 10:14 AM from 678-733-9191
- 73) August 22, 2014 at 8:44 AM from 678-608-0576
- 74) August 25, 2014 at 10:36 AM from 678-608-0576
- 75) August 26, 2014 at 10:03 AM from 678-608-0548
- 76) August 27, 2014 at 4:34 PM from 678-608-0548
- 77) August 28, 2014 at 9:55 AM from 678-608-0576
- 78) August 29, 2014 at 8:40 AM from 678-608-0576

14. On the several occasions when Plaintiff would answer Defendant's calls no one would say anything and there would be only dead air.

15. Not one of DCI telephone calls placed to Plaintiff were for "Emergency purposes" as specified in 47 U.S.C. § 227(b)(1)(A).
16. Plaintiff does not have any kind of business relationship with the defendant
17. Plaintiff at or near the time each of the calls was placed to his wireless phones the Defendant made handwritten notes of all calls details including but not limited to the date, time, whether he answered the call and what was said by the caller if anything.
18. Upon information and good-faith belief, the telephone calls identified above were placed to Plaintiff's wireless phone number using an automatic telephone dialing system (ATDS) and/or used an artificial or prerecorded voice.
19. Upon information and belief, Defendant placed the calls to the Plaintiff identified above voluntarily.
20. Upon information and belief, Defendant placed the calls to the Plaintiff identified above under its own free will.
21. Upon information and belief, the Defendant had knowledge that it was using an automatic telephone dialing system to place each of the telephone calls identified above.
22. Upon information and belief, Defendant intended to use an automatic telephone dialing system to place each of the telephone calls identified above.
23. Upon information and belief, Defendant maintains business records that show all calls Defendant placed to Plaintiff's wireless telephone number.
24. At the times that all of the above identified calls were received on his wireless phone Plaintiff was the subscriber to the called number, was the sole person having custody of said phone and paid for the airtime for the called phone number.
25. Plaintiff sent a Notice of Intent to Sue to the Defendant which was mailed by **CERTIFIED MAIL # 7017 1450 0001 5530 2780** on October 13, 2017 in an effort to mitigate damages and settle all claims prior to litigation.

26. Plaintiff's claims herein are brought timely within the four year statute of limitations under the Telephone Consumer Protection Act ("TCPA").

COUNT 1

VIOLATIONS OF THE TCPA 47 U.S.C. § 227(B)(1)(A)(3)

27. Plaintiff repeats and re-alleges each and every allegation stated above.

28. Defendant's aforementioned conduct violated the TCPA, 47 U.S.C. § 227.

WHEREFORE, Plaintiff prays for relief and judgment as follows:

- a. Adjudging that Defendant violated the TCPA, 47 U.S.C. 227
- b. Awarding Plaintiff statutory damages, pursuant to 47 U.S.C. § 227(B)(3)(B); Plaintiff is entitled to statutory damages under TCPA of not less than \$500.00 per phone call made to Plaintiff.

Defendant has demonstrated willful or knowing non-compliance with 47 U.S.C. 227(b) (1) (A) (iii) by using an automatic telephone dialing system to call the Plaintiff's number which is assigned to a cellular phone.

Defendant has demonstrated willful knowing non-compliance with 47 U.S.C. § 227(b) (1) (A) the second call is subject to treble damages pursuant to 47 U.S.C. 227(b) (3). as it was intentional. An unintentional call carries a damage amount of \$500.00. An intentional call carries a damage of \$1500.00 per violation.

- c. Awarding Plaintiff any attorney's fees and costs incurred in this action.
- d. Awarding Plaintiff post-judgment interest as may be allowed under the law.

e. Awarding such other and further relief as the Court may deem just and proper.

Dated: Februarys 12, 2018

Respectfully Submitted

BY: 

Levi T. White Pro Se
420 E. Boundary Street
Apt. H-203
Augusta, Georgia 30901
nazinga58@yahoo.com
470-572-0593

Service to:

DIVERSIFIED CONSULTANTS INC.
LEGAL DEPARTMENT
10550 Deerwood Park Blvd,
Building # 309
Jacksonville, FL 32256.

6786665887
Jun 13 Fri, 10:07 am

EXHIBIT B



Public Utility Commission of Texas

ADAD Report

DIVERSIFIED CONSULTANTS INC

Permit No: 070122

Type: ADAD

Permit Approved Date: 3/28/2007

Date Last Renewed: 3/28/2016

BA Names

No DBA Records

Contact Information

Company / Physical (Mailing Address)
DIVERSIFIED CONSULTANTS INC
MAVIS PYE
VP OF COMPLIANCE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Web: www.dccollect.com
Email: info@dccollect.com
Phone: 904-247-5500
Toll Free: 800-771-5361
Fax: 904-247-0660

ADAD Physical Address
DIVERSIFIED CONSULTANTS INC
MAVIS PYE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Email: mavis@dccollect.com
Phone: 904-694-3141
Toll Free: 800-771-5361
Fax: 904-247-0660

ADAD Physical Address
DIVERSIFIED CONSULTANTS INC
MAVIS PYE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Email: mavis@dccollect.com
Phone: 904-694-3141
Toll Free: 800-771-5361
Fax: 904-247-0660

Mailing / PO Box
DIVERSIFIED CONSULTANTS, INC
MAVIS PYE
VP OF COMPLIANCE
10550 DEERWOOD PARK BLVD
SUITE 309
JACKSONVILLE, FL 32256
Web: www.dccollect.com
Email: info@dccollect.com
Phone: 904-247-5500

Toll Free: 800-771-5361
Fax: 904-247-0660

reports

2015
ADAD Annual Report
Submitted: 11/3/2015
Approved: 11/18/2015

2013
ADAD Annual Report
Submitted: 4/11/2013
Approved: 4/16/2013

2011
ADAD Annual Report
Submitted: 11/1/2011
Approved: 12/12/2011

2009
ADAD Annual Report
Submitted: 11/9/2009
Approved: 11/18/2009

2014
ADAD Annual Report
Submitted: 3/3/2014
Approved: 11/25/2014

2012
ADAD Annual Report
Submitted: 11/26/2012
Approved: 3/19/2013

2010
ADAD Annual Report
Submitted: 11/10/2010
Approved: 11/18/2010

2008
ADAD Annual Report
Submitted: 1/15/2008
Approved: 11/6/2008

End Report

VERIFICATION BY PLAINTIFF

I, Levi White have read the foregoing complaint and examined the appendices referenced therein. The facts stated in the complaint are true. The appendices are true and fair copies of recited documents.



(Levi White)

Februarys 12, 2018

(Date Signed)

State of Georgia

County of Richmond

Before me, the undersigned notary, on Februarys 12, 2018 personally appeared Levi White, who produced his Georgia Driver's License as ID, and who, being duly sworn, stated under penalty that the facts alleged in the foregoing complaint and any appendices thereto are true and correct.


Notary Signature

CERTIFICATE OF SERVICE

The true and correct copy of the foregoing document was sent to the below named parties by first mail Certified Mail # 7017 2400 0000 1501 2921. In a properly addressed envelopes with adequate postage.

Signed February 12, 2018

A handwritten signature in blue ink, appearing to read "DuAnn Cowart Davis", is written over a horizontal line.

DuAnn Cowart Davis
108 North Main Street
Suite B.
Reidsville Ga. 30453
(912) 257-4247
duann@duanncowartdavis.com
Attorney for the DEFENDANT